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Attorneys for Apple Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

APPLE INC., a California corporation,

Plaintiff,

v.

MASIMO CORPORATION,
a Delaware corporation; and
CERCACOR LABORATORIES, INC.,
a Delaware Corporation.

Defendants.

CASE NO. 5:20-mc-80061-VKD

**APPLE INC.'S NOTICE OF VOLUNTARY
DISMISSAL WITHOUT PREJUDICE AND
WITHDRAWAL OF MOTION TO QUASH
SUBPOENA AND FOR A PROTECTIVE
ORDER**

[Related to Case Nos. 8:18-cv-02001-JVS-JDE
(C.D. Cal. filed Nov. 8, 2018) and 8:20-cv-
00048-JVS (JDEx) (C.D. Cal. filed Jan. 9, 2020)]

1 TO THE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that pursuant to Fed. R. Civ. P. 41(a)(1) and Civil Local
3 Rule 7-7(e), Defendant Apple Inc. ("Apple") hereby voluntarily dismisses all claims in this action
4 without prejudice and withdraws its Motion to Quash Subpoena and for a Protective Order (the
5 "Motion"), which was filed on March 10, 2020 (ECF No. 5:20-mc-80061-VKD).

6 On March 18, 2020, counsel for Plaintiffs Masimo Corporation and Cercacor Laboratories,
7 Inc., informed counsel for Apple that they intend to withdraw the subpoena for the production of a
8 deposition witness and documents served on Apple on January 8, 2020, in connection with *Masimo*
9 *Corp. et al. v. True Wearables Inc. et al.*, No. 8:18-cv-02001-JVS-JDE (the "True Wearables Case"),
10 which is the subpoena that gave rise to Apple's Motion and this action. Apple therefore voluntarily
11 dismisses this action without prejudice and withdraws its Motion, reserving the right to refile both
12 should Plaintiffs at any time decide to re-issue the subpoena to Apple in connection with the True
13 Wearables Case. Each party shall bear their own attorney's fees and costs.

14
15 Dated: March 20, 2020

Respectfully submitted,

16 JOSHUA H. LERNER
17 H. MARK LYON
18 ILISSA SAMPLIN
GIBSON, DUNN & CRUTCHER LLP

19
20 By: /s/ Joshua H. Lerner
Joshua H. Lerner

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22 *Attorneys for Apple Inc.*
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DECLARATION OF SERVICE

I, Ashley K. Moser, declare as follows:

I am employed in the County of San Francisco, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 555 Mission St., San Francisco, California 94105, in said County and State. On March 20, 2020, I served the within

APPLE INC.'S NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE AND WITHDRAWAL OF MOTION TO QUASH SUBPOENA AND FOR A PROTECTIVE ORDER to all parties named below, by the following means of service:

Masimo Americas, Inc.
52 Discovery
Irvine, CA 92618

Gerry Hammarth
Cercacor Laboratories, Inc.
15750 Alton Parkway
Irvine, CA 92618

Irfan Lateef (counsel for Masimo Americas, Inc. & Cercacor Laboratories, Inc.)
Knobbe, Martens, Olson & Bear LLP
2040 Main Street, Fourteenth Floor
Irvine, CA 92614

☒ **BY MAIL:** By placing a true and correct copy thereof enclosed in a sealed envelope addressed as above, with postage thereon fully prepaid, in the U.S. Mail at San Francisco, California. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid at San Francisco, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing as stated in affidavit.

I certify under penalty of perjury that the foregoing is true and correct, that the foregoing document(s) were printed on recycled paper, and that this Declaration of Service was executed by the undersigned on March 20, 2020, at San Francisco, California.

/s/ Ashley K. Moser
Ashley K. Moser